

HOUSE BILL No. 1372

DIGEST OF INTRODUCED BILL

Citations Affected: IC 3-5-2-48; IC 3-8; IC 3-10-2-6; IC 3-11-2-12; IC 4-1-6-1; IC 4-2; IC 4-3-6-2; IC 5-14-3-3.5; IC 6-1.1-19-4.1; IC 20-19; IC 20-20; IC 20-24-3-12; IC 20-32-6-3; IC 20-35-2-1.

Synopsis: Selection of superintendent of public instruction. Provides for the state superintendent of public instruction to be appointed by the governor. Repeals a statute relating to the residency of candidates for state superintendent of public instruction. Deletes a provision describing the term of office of the state superintendent of public instruction.

Effective: July 1, 2008.

Behning

January 17, 2008, read first time and referred to Committee on Elections and Apportionment.

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Introduced

Second Regular Session 115th General Assembly (2008)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2007 Regular Session of the General Assembly.

HOUSE BILL No. 1372

A BILL FOR AN ACT to amend the Indiana Code concerning elections.

Be it enacted by the General Assembly of the State of Indiana:

- 1 SECTION 1. IC 3-5-2-48 IS AMENDED TO READ AS FOLLOWS
2 [EFFECTIVE JULY 1, 2008]: Sec. 48. "State office" refers to governor,
3 lieutenant governor, secretary of state, auditor of state, treasurer of
4 state, ~~superintendent of public instruction~~, attorney general, justice of
5 the supreme court, judge of the court of appeals, and judge of the tax
6 court.
7 SECTION 2. IC 3-8-1-33, AS AMENDED BY P.L.2-2005,
8 SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
9 JULY 1, 2008]: Sec. 33. (a) A candidate for an office listed in
10 subsection (b) must file a statement of economic interests.
11 (b) Whenever a candidate for any of the following offices is also
12 required to file a declaration of candidacy or is nominated by petition,
13 the candidate shall file a statement of economic interests before filing
14 the declaration of candidacy or declaration of intent to be a write-in
15 candidate, before the petition of nomination is filed, before the
16 certificate of nomination is filed, or before being appointed to fill a
17 candidate vacancy under IC 3-13-1 or IC 3-13-2:

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(1) Governor, lieutenant governor, secretary of state, auditor of state, treasurer of state, **and** attorney general, ~~and state superintendent of public instruction~~; in accordance with IC 4-2-6-8.

(2) Senator and representative in the general assembly, in accordance with IC 2-2.1-3-2.

(3) Justice of the supreme court, judge of the court of appeals, judge of the tax court, judge of a circuit court, judge of a superior court, judge of a county court, judge of a probate court, and prosecuting attorney, in accordance with IC 33-23-11-14 and IC 33-23-11-15.

SECTION 3. IC 3-8-4-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 2. (a) A political party shall conduct a state convention to nominate the candidates of the political party for the following offices to be voted on at the next general election:

(1) Lieutenant governor.

(2) Secretary of state.

(3) Auditor of state.

(4) Treasurer of state.

(5) Attorney general.

~~(6) Superintendent of public instruction.~~

(b) The convention shall also:

(1) nominate candidates for presidential electors and alternate electors; and

(2) elect the delegates and alternate delegates to the national convention of the political party.

SECTION 4. IC 3-10-2-6, AS AMENDED BY P.L.230-2005, SECTION 38, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 6. The following public officials shall be elected in 2008 and every four (4) years thereafter:

(1) Governor.

(2) Lieutenant governor.

(3) Attorney general.

~~(4) Superintendent of public instruction.~~

SECTION 5. IC 3-11-2-12, AS AMENDED BY P.L.2-2005, SECTION 4, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 12. The following offices shall be placed on the general election ballot in the following order:

(1) Federal and state offices:

(A) President and Vice President of the United States.

(B) United States Senator.

(C) Governor and lieutenant governor.

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- 1 (D) Secretary of state.
- 2 (E) Auditor of state.
- 3 (F) Treasurer of state.
- 4 (G) Attorney general.
- 5 ~~(H) Superintendent of public instruction.~~
- 6 ~~(H)~~ (H) United States Representative.
- 7 (2) Legislative offices:
- 8 (A) State senator.
- 9 (B) State representative.
- 10 (3) Circuit offices and county judicial offices:
- 11 (A) Judge of the circuit court, and unless otherwise specified
- 12 under IC 33, with each division separate if there is more than
- 13 one (1) judge of the circuit court.
- 14 (B) Judge of the superior court, and unless otherwise specified
- 15 under IC 33, with each division separate if there is more than
- 16 one (1) judge of the superior court.
- 17 (C) Judge of the probate court.
- 18 (D) Judge of the county court, with each division separate, as
- 19 required by IC 33-30-3-3.
- 20 (E) Prosecuting attorney.
- 21 (F) Clerk of the circuit court.
- 22 (4) County offices:
- 23 (A) County auditor.
- 24 (B) County recorder.
- 25 (C) County treasurer.
- 26 (D) County sheriff.
- 27 (E) County coroner.
- 28 (F) County surveyor.
- 29 (G) County assessor.
- 30 (H) County commissioner.
- 31 (I) County council member.
- 32 (5) Township offices:
- 33 (A) Township assessor.
- 34 (B) Township trustee.
- 35 (C) Township board member.
- 36 (D) Judge of the small claims court.
- 37 (E) Constable of the small claims court.
- 38 (6) City offices:
- 39 (A) Mayor.
- 40 (B) Clerk or clerk-treasurer.
- 41 (C) Judge of the city court.
- 42 (D) City-county council member or common council member.

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(7) Town offices:

(A) Clerk-treasurer.

(B) Judge of the town court.

(C) Town council member.

SECTION 6. IC 4-1-6-1, AS AMENDED BY P.L.2-2007, SECTION 17, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 1. As used in this chapter, the term:

(a) "Personal information system" means any recordkeeping process, whether automated or manual, containing personal information and the name, personal number, or other identifying particulars of a data subject.

(b) "Personal information" means any information that describes, locates, or indexes anything about an individual or that affords a basis for inferring personal characteristics about an individual including, but not limited to, ~~his~~ **the individual's** education, financial transactions, medical history, criminal or employment records, finger and voice prints, photographs, or ~~his~~ **the individual's** presence, registration, or membership in an organization or activity or admission to an institution.

(c) "Data subject" means an individual about whom personal information is indexed or may be located under ~~his~~ **the individual's** name, personal number, or other identifiable particulars, in a personal information system.

(d) "State agency" means every agency, board, commission, department, bureau, or other entity of the administrative branch of Indiana state government, except those which are the responsibility of the auditor of state, treasurer of state, secretary of state, **and** attorney general, ~~superintendent of public instruction~~, and excepting the department of state police and state educational institutions.

(e) "Confidential" means information which has been so designated by statute or by promulgated rule or regulation based on statutory authority.

SECTION 7. IC 4-2-1-1.5, AS ADDED BY P.L.43-2007, SECTION 11, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 1.5. (a) Subject to subsection (b), the salary of the state elected officials other than the governor is as follows:

(1) For the lieutenant governor, seventy-six thousand dollars (\$76,000) per year. However, the lieutenant governor is not entitled to receive per diem allowance for performance of duties as president of the senate.

(2) For the secretary of state, sixty-six thousand dollars (\$66,000) per year.

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(3) For the auditor of state, sixty-six thousand dollars (\$66,000) per year.

(4) For the treasurer of state, sixty-six thousand dollars (\$66,000) per year.

(5) For the attorney general, seventy-nine thousand four hundred dollars (\$79,400) per year.

~~(6) For the state superintendent of public instruction, seventy-nine thousand four hundred dollars (\$79,400) per year.~~

(b) Beginning January 1, 2008, the part of the total salary of a state elected official is increased on January 1 of each year after a year in which the general assembly does not amend this section to provide a salary increase for the state elected official.

(c) The percentage by which salaries are increased under this section is equal to the statewide average percentage, as determined by the budget director, by which the salaries of state employees in the executive branch who are in the same or a similar salary bracket exceed, for the current state fiscal year, the salaries of executive branch state employees in the same or a similar salary bracket that were in effect on January 1 of the immediately preceding year.

(d) The amount of a salary increase under this section is equal to the amount determined by applying the percentage increase for the particular year to the salary of the state elected official, as previously adjusted under this section, that is in effect on January 1 of the immediately preceding year.

(e) A state elected official is not entitled to receive a salary increase under this section on January 1 of a state fiscal year in which state employees described in subsection (c) do not receive a statewide average salary increase.

(f) If a salary increase is required under this section, an amount sufficient to pay for the salary increase is appropriated from the state general fund.

SECTION 8. IC 4-2-6-8, AS AMENDED BY P.L.89-2006, SECTION 9, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 8. (a) The following persons shall file a written financial disclosure statement:

(1) The governor, lieutenant governor, secretary of state, auditor of state, treasurer of state, **and** attorney general. ~~and state superintendent of public instruction.~~

(2) Any candidate for one (1) of the offices in subdivision (1) who is not the holder of one (1) of those offices.

(3) Any person who is the appointing authority of an agency.

(4) The director of each division of the **Indiana** department of

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administration.

(5) Any purchasing agent within the procurement division of the **Indiana** department of administration.

(6) Any agency employee, special state appointee, former agency employee, or former special state appointee with final purchasing authority.

(7) An employee required to do so by rule adopted by the inspector general.

(b) The statement shall be filed with the inspector general as follows:

(1) Not later than February 1 of every year, in the case of the state officers and employees enumerated in subsection (a).

(2) If the individual has not previously filed under subdivision (1) during the present calendar year and is filing as a candidate for a state office listed in subsection (a)(1), before filing a declaration of candidacy under IC 3-8-2 or IC 3-8-4-11, petition of nomination under IC 3-8-6, or declaration of intent to be a write-in candidate under IC 3-8-2-2.5, or before a certificate of nomination is filed under IC 3-8-7-8, in the case of a candidate for one (1) of the state offices (unless the statement has already been filed when required under IC 3-8-4-11).

(3) Not later than sixty (60) days after employment or taking office, unless the previous employment or office required the filing of a statement under this section.

(4) Not later than thirty (30) days after leaving employment or office, unless the subsequent employment or office requires the filing of a statement under this section.

The statement must be made under affirmation.

(c) The statement shall set forth the following information for the preceding calendar year or, in the case of a state officer or employee who leaves office or employment, the period since a previous statement was filed:

(1) The name and address of any person known:

(A) to have a business relationship with the agency of the state officer or employee or the office sought by the candidate; and

(B) from whom the state officer, candidate, or the employee, or that individual's spouse or unemancipated children received a gift or gifts having a total fair market value in excess of one hundred dollars (\$100).

(2) The location of all real property in which the state officer, candidate, or the employee or that individual's spouse or unemancipated children has an equitable or legal interest either

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amounting to five thousand dollars (\$5,000) or more or comprising ten percent (10%) of the state officer's, candidate's, or the employee's net worth or the net worth of that individual's spouse or unemancipated children. An individual's primary personal residence need not be listed, unless it also serves as income property.

(3) The names and the nature of the business of the employers of the state officer, candidate, or the employee and that individual's spouse.

(4) The following information about any sole proprietorship owned or professional practice operated by the state officer, candidate, or the employee or that individual's spouse:

(A) The name of the sole proprietorship or professional practice.

(B) The nature of the business.

(C) Whether any clients are known to have had a business relationship with the agency of the state officer or employee or the office sought by the candidate.

(D) The name of any client or customer from whom the state officer, candidate, employee, or that individual's spouse received more than thirty-three percent (33%) of the state officer's, candidate's, employee's, or that individual's spouse's nonstate income in a year.

(5) The name of any partnership of which the state officer, candidate, or the employee or that individual's spouse is a member and the nature of the partnership's business.

(6) The name of any corporation (other than a church) of which the state officer, candidate, or the employee or that individual's spouse is an officer or a director and the nature of the corporation's business.

(7) The name of any corporation in which the state officer, candidate, or the employee or that individual's spouse or unemancipated children own stock or stock options having a fair market value in excess of ten thousand dollars (\$10,000). However, if the stock is held in a blind trust, the name of the administrator of the trust must be disclosed on the statement instead of the name of the corporation. A time or demand deposit in a financial institution or insurance policy need not be listed.

(8) The name and address of the most recent former employer.

(9) Additional information that the person making the disclosure chooses to include.

Any such state officer, candidate, or employee may file an amended

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statement upon discovery of additional information required to be reported.

(d) A person who:

(1) fails to file a statement required by rule or this section in a timely manner; or

(2) files a deficient statement;

upon a majority vote of the commission, is subject to a civil penalty at a rate of not more than ten dollars (\$10) for each day the statement remains delinquent or deficient. The maximum penalty under this subsection is one thousand dollars (\$1,000).

(e) A person who intentionally or knowingly files a false statement commits a Class A infraction.

SECTION 9. IC 4-3-6-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 2. As used in this chapter:

(1) "Agency" means any executive or administrative department, commission, council, board, bureau, division, service, office, officer, administration, or other establishment in the executive or administrative branch of the state government not provided for by the constitution. The term "agency" does not include the secretary of state, the auditor of state, the treasurer of state, the lieutenant governor, ~~the state superintendent of public instruction~~, and the attorney general, nor the departments of which they are, by the statutes first adopted setting out their duties, the administrative heads.

(2) "Reorganization" means:

(A) the transfer of the whole or any part of any agency, or of the whole or any part of the functions thereof, to the jurisdiction and control of any other agency;

(B) the abolition of all or any part of the functions of any agency;

(C) the consolidation or coordination of the whole or any part of any agency, or of the whole or any part of the functions thereof, with the whole or any part of any other agency or the functions thereof;

(D) the consolidation or coordination of any part of any agency or the functions thereof with any other part of the same agency or the functions thereof;

(E) the authorization of any officer to delegate any of ~~his~~ **the officer's** functions; or

(F) the abolition of the whole or any part of any agency which agency or part does not have, or upon the taking effect of a reorganization plan will not have, any functions.

SECTION 10. IC 5-14-3-3.5, AS AMENDED BY P.L.177-2005, SECTION 15, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE

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JULY 1, 2008]: Sec. 3.5. (a) As used in this section, "state agency" has the meaning set forth in IC 4-13-1-1. The term does not include the office of the following elected state officials:

- (1) Secretary of state.
- (2) Auditor.
- (3) Treasurer.
- (4) Attorney general.
- ~~(5) Superintendent of public instruction.~~

However, each state office described in subdivisions (1) through ~~(5)~~ (4) and the judicial department of state government may use the computer gateway administered by the office of technology established by IC 4-13.1-2-1, subject to the requirements of this section.

(b) As an additional means of inspecting and copying public records, a state agency may provide enhanced access to public records maintained by the state agency.

(c) If the state agency has entered into a contract with a third party under which the state agency provides enhanced access to the person through the third party's computer gateway or otherwise, all of the following apply to the contract:

- (1) The contract between the state agency and the third party must provide for the protection of public records in accordance with subsection (d).
- (2) The contract between the state agency and the third party may provide for the payment of a reasonable fee to the state agency by either:
 - (A) the third party; or
 - (B) the person.

(d) A contract required by this section must provide that the person and the third party will not engage in the following:

- (1) Unauthorized enhanced access to public records.
- (2) Unauthorized alteration of public records.
- (3) Disclosure of confidential public records.

(e) A state agency shall provide enhanced access to public records only through the computer gateway administered by the office of technology.

SECTION 11. IC 6-1.1-19-4.1, AS AMENDED BY P.L.2-2006, SECTION 48, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 4.1. (a) To assist the department of local government finance in deciding the merits of any appeal filed with the department by, or in respect of, any school corporation, there is established the school property tax control board.

(b) The tax control board consists of five (5) voting members and

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two (2) ex officio nonvoting members. In addition, the school property tax control board may include not more than four (4) additional voting members who shall be appointed as follows:

(1) One (1) member shall be appointed by the president pro tempore of the senate and must be a business official of a school corporation who is not employed by a school corporation that is undergoing a construction project.

(2) One (1) member shall be appointed by the president pro tempore of the senate and must be an engineer who is knowledgeable in the construction of school buildings but who is:

(A) not actively employed by an engineering firm that is involved in a school building construction project; and

(B) not otherwise a party to a contract for engineering services for a school building construction project.

(3) One (1) member shall be appointed by the speaker of the house of representatives and must be an architect who is knowledgeable in the design of school buildings but who is:

(A) not actively employed by an architectural firm that is involved in a school building construction project; and

(B) not otherwise a party to a contract for architectural services for a school building construction project.

(4) One (1) member shall be appointed by the speaker of the house of representatives and must be a financial adviser who is:

(A) not actively employed as a financial adviser to a school corporation that is involved in a school building construction project; or

(B) not otherwise a party to a contract for financial advisory services for a school building construction project.

Of the mandatory five (5) voting members, one (1) shall be appointed by the state board of accounts, one (1) shall be appointed by the department of local government finance, and three (3) shall be appointed by the governor. ~~The governor may seek the recommendation of the state superintendent of public instruction with regard to one (1) of the governor's appointments.~~ Each of the remaining ~~two (2)~~ governor's appointees must be a citizen of Indiana who neither holds an elective or appointive office in the government of the state nor is regularly employed by the state. Each of the mandatory five (5) voting members and any additional voting members who may be appointed serves at the will of the appointing board or person.

(c) The speaker of the house of representatives shall appoint one (1) member of the house of representatives as one (1) of the ex officio nonvoting members of the tax control board. The president pro tempore

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of the senate shall appoint one (1) member of the senate as the other ex officio nonvoting member of the tax control board. Each of the ex officio nonvoting members of the tax control board serve at the will of the appointing officer.

(d) A vacancy in the membership of the tax control board shall be filled by the appointing authority who made the appointment to the seat that is vacated.

(e) Members of the tax control board do not receive compensation for services as members, except as provided in subsections (m) and (n).

(f) Each member of the tax control board shall, before proceeding to the discharge of the member's duties as a member of the tax control board, subscribe and swear to a written statement declaring the member's intention to:

(1) support the Constitution of the United States and the Constitution of the State of Indiana; and

(2) faithfully, honestly, and impartially discharge the member's duties as a member of the tax control board.

(g) The tax control board shall meet, as business requires, in rooms provided by the department of local government finance. The department of local government finance shall provide the tax control board with such staff and secretarial assistance as the tax control board may reasonably require. The tax control board shall hold an annual organizational meeting at which the board shall elect one (1) of its members as chairman and another as secretary.

(h) The department of local government finance shall promptly deliver the following to the tax control board:

(1) Every appeal petition that is filed with the department by, or in respect of, any school corporation.

(2) Any other materials related to the appeal petition that the department possesses.

(i) Upon receiving an appeal petition from a school corporation, the tax control board shall immediately examine the petition and consider the merits of the school corporation's appeal.

(j) The tax control board may conduct hearings on any appeal petition before the tax control board, and the tax control board may require any officer or member of the school corporation whose appeal petition is under consideration by the tax control board to appear before the tax control board, to produce, before the tax control board, any books and records the tax control board considers pertinent to the appeal, or both.

(k) If an officer or member of a school corporation fails or refuses to:

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(1) appear at a hearing of the tax control board after receiving a written notice from the tax control board requiring the officer's or member's attendance; or

(2) produce for the tax control board's use the books and records that the tax control board has, by written notice, required the officer or member to produce;

the tax control board may file an affidavit in the circuit court with jurisdiction over the officer or member, setting forth the facts of the failure or refusal. Upon the filing of the affidavit, the circuit court shall promptly issue a summons, and the sheriff of the county in which the circuit court sits shall serve the summons. The summons must command the officer or member to appear before the tax control board, to provide information to the tax control board, or to produce books and records for the tax control board's use, as the case may be. Disobedience of the summons is punishable as contempt of the circuit court that issued the summons.

(l) All expenses incident to the filing of the affidavit and the issuance and service of the summons under this section shall be charged to the officer or member against whom the summons is issued, unless the circuit court finds that the action of the officer or member was taken in good faith and with reasonable cause. If the court finds that the officer or member acted in good faith and with reasonable cause or if an affidavit is filed without the issuance of a summons, the expenses shall be:

(1) charged against the county in which the affidavit has been filed; and

(2) allowed by the proper fiscal officers of that county.

(m) Each member of the tax control board who is not a state employee is entitled to receive both of the following:

(1) The minimum salary per diem provided by IC 4-10-11-2.1(b).

(2) Reimbursement for travel expenses and other expenses actually incurred in connection with the member's duties, as provided in the state travel policies and procedures established by the Indiana department of administration and approved by the budget agency.

(n) Each member of the tax control board who is a state employee is entitled to reimbursement for travel expenses and other expenses actually incurred in connection with the member's duties, as provided in the state travel policies and procedures established by the Indiana department of administration and approved by the budget agency.

SECTION 12. IC 20-19-1-1, AS ADDED BY P.L.1-2005, SECTION 3, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE

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JULY 1, 2008]: Sec. 1. (a) The **governor shall appoint the** state superintendent. ~~shall be elected under IC 3-10-2-6 by the voters of Indiana.~~

(b) The ~~term of office of the~~ state superintendent is four ~~(4)~~ years:
 (1) ~~beginning on the second Monday in January after election;~~
 and
 (2) ~~continuing until a successor is elected and qualified.~~
serves at the pleasure of the governor.

(c) **The governor shall fix the salary of the state superintendent.**

(d) **The individual appointed as the state superintendent shall take an oath of office and post a bond in the amount required by the governor.**

(e) **The state superintendent is the chief executive officer of the department.**

SECTION 13. IC 20-19-4-3, AS ADDED BY P.L.1-2005, SECTION 3, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 3. The roundtable consists of the following members:

(1) A number of members appointed ~~jointly~~ by the governor. ~~and the state superintendent.~~ These members must be representatives of:

- (A) business and community leaders;
- (B) elementary and secondary education, including programs for exceptional learners (as defined in IC 20-31-2-6); and
- (C) higher education.

The number of members appointed under clause (A) must be equal to the number of members appointed under clauses (B) and (C).

(2) Two (2) members appointed by the president pro tempore of the senate from different political parties.

(3) Two (2) members appointed by the speaker of the house of representatives from different political parties.

SECTION 14. IC 20-19-4-5, AS ADDED BY P.L.1-2005, SECTION 3, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 5. (a) The ~~governor and the~~ state superintendent ~~shall jointly serve~~ **serves** as ~~cochairpersons~~ **chair** of the roundtable. The roundtable shall meet upon the call of the ~~cochairpersons.~~ **chair.**

(b) A quorum of the roundtable must be present to conduct business. A quorum consists of a majority of the voting members appointed to the roundtable. The roundtable may not take an official action unless the official action has been approved by at least a majority of the voting members appointed to serve on the roundtable.

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SECTION 15. IC 20-20-14-3, AS AMENDED BY P.L.2-2007, SECTION 206, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 3. (a) The council shall advise the state superintendent and the governor on education related technology initiatives.

(b) The appointed membership of the council shall reflect its purposes and be experienced in technology generally. An appointed member of the council serves at the pleasure of the appointing authority. The council consists of the following sixteen (16) voting members:

(1) The state superintendent.

(2) The special assistant to the state superintendent of public instruction responsible for technology who is appointed under section 5 of this chapter.

(3) Four (4) individuals who represent private business appointed jointly by the state superintendent and the governor. Each member appointed under this subdivision must be experienced in development and use of information technology. A member appointed under this subdivision may not represent possible providers of technology or related services.

(4) Three (3) individuals who:

(A) manage educational environments, including postsecondary education; and

(B) are experienced in their educational work with information technology;

are appointed jointly by the state superintendent and the governor.

(5) Three (3) individuals who are public school educators familiar with and experienced in the use of technology in educational settings appointed jointly by the state superintendent and the governor, with one (1) representing an urban school corporation, one (1) representing a suburban school corporation, and one (1) representing a rural school corporation.

(6) Four (4) members who are members of the general assembly and who are appointed as follows:

(A) Two (2) members of the house of representatives, appointed by the speaker of the house of representatives with not more than one (1) from a particular political party.

(B) Two (2) members of the senate, appointed by the president pro tempore of the senate with not more than one (1) from a particular political party.

(c) The state superintendent shall designate the chair of the council from the membership of the council.

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(d) Nine (9) members of the council constitute a quorum to conduct business. Action of the council is not valid unless approved by at least nine (9) voting members of the council.

(e) Each member of the council who is not a state employee is not entitled to the minimum salary per diem as provided by IC 4-10-11-2.1(b). The member is, however, entitled to reimbursement for traveling expenses as provided under IC 4-13-1-4 and other expenses actually incurred in connection with the member's duties as provided in the state policies and procedures established by the Indiana department of administration and approved by the budget agency.

(f) Each member of the council who is a state employee but who is not a member of the general assembly is entitled to reimbursement for traveling expenses as provided under IC 4-13-1-4 and other expenses actually incurred in connection with the member's duties as provided in the state policies and procedures established by the Indiana department of administration and approved by the budget agency.

(g) Each member of the council who is a member of the general assembly is entitled to receive the same per diem, mileage, and travel allowances paid to members of the general assembly serving on interim study committees established by the legislative council.

SECTION 16. IC 20-20-15-4, AS ADDED BY P.L.1-2005, SECTION 4, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 4. The articles of incorporation and bylaws of the corporation must provide for the following:

(1) That the exclusive purposes of the corporation are to:

(A) administer a statewide computer project placing computers in homes of public school students (commonly referred to as the "buddy system project") and any other educational technology program or project jointly authorized by the state superintendent and the governor; and

(B) advise the state superintendent and the governor on education related technology initiatives, specifically those initiatives implemented through the educational technology program under IC 20-20-13.

(2) That the board is composed of sixteen (16) individuals who serve at the pleasure of the state superintendent and the governor and who shall be appointed jointly by the state superintendent and the governor as follows:

(A) Four (4) individuals who represent private business.

(B) Three (3) individuals who are public school educators with one (1) representing an urban school corporation, one (1) representing a suburban school corporation, and one (1)

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representing a rural school corporation.

(C) Four (4) individuals who are members of the general assembly and who are appointed as follows:

(i) Two (2) members of the house of representatives, appointed by the speaker of the house of representatives with not more than one (1) from a particular political party.

(ii) Two (2) members of the senate, appointed by the president pro tempore of the senate with not more than one (1) from a particular political party.

(D) Five (5) individuals who represent education.

(3) That the state superintendent shall designate the chair of the board from the membership of the board.

(4) That the board may select other officers the board considers necessary, including a vice chair, treasurer, or secretary.

(5) That the chair of the board may appoint subcommittees that the chair considers necessary to carry out the duties of the corporation.

(6) That the corporation, with the approval of the state superintendent, shall appoint or contract with a person to be president. The president shall serve as the chief operating officer of the corporation and may employ consultants to carry out the corporation's duties under this chapter.

(7) That a majority of the entire membership constitutes a quorum to do business. However, an action of the corporation is not valid unless approved by at least nine (9) members of the corporation.

(8) That each board member who is not a state employee is not entitled to the minimum salary per diem provided by IC 4-10-11-2.1(b). Such a member is, however, entitled to reimbursement for traveling expenses and other expenses actually incurred in the state travel policies and procedures established by the Indiana department of administration and approved by the budget agency.

(9) That each member of the board who is a state employee but who is not a member of the general assembly is entitled to reimbursement for traveling expenses and other expenses actually incurred in connection with the member's duties, as provided in the state travel policies and procedures established by the Indiana department of administration and approved by the budget agency.

(10) That each member of the board who is a member of the general assembly is entitled to receive the same per diem, mileage, and travel allowances paid to members of the general assembly serving on interim study committees established by the

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legislative council.

(11) That the corporation may receive money from any source, including state appropriations, may enter into contracts, and may expend funds for any activities necessary, convenient, or expedient to carry out the exclusive purposes of the corporation.

(12) That an individual who makes a donation to the corporation may designate:

(A) the particular school corporation; or

(B) the educational technology program implemented by the corporation under IC 20-20-13;

to receive the donation, and that the corporation may not authorize the distribution of that donation in a manner that disregards or otherwise interferes with the donor's designation. However, an individual who wishes to make a donation under this chapter is not entitled to specify, designate, or otherwise require that the corporation use the donation to purchase particular technology equipment or patronize a particular vendor of technology equipment.

(13) That if the corporation elects to expend funds that have not been designated to a particular school corporation or educational technology program under IC 20-20-13, the corporation shall first expend those unspecified funds to school corporations or programs that have not been the recipient of a designated donation under subdivision (12).

(14) That the corporation shall take into account other programs and distributions available to school corporations for at risk students.

(15) That any changes in the articles of incorporation or bylaws must be approved by the board.

(16) That the corporation shall submit an annual report to the general assembly before November 2 of each year and that the report must include detailed information on the structure, operation, and financial status of the corporation and must be in an electronic format under IC 5-14-6.

(17) That the corporation is subject to an annual audit by the state board of accounts, and that the corporation shall pay the full costs of the audit.

SECTION 17. IC 20-20-15-5, AS ADDED BY P.L.1-2005, SECTION 4, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 5. The corporation, after being certified by the state superintendent under section 3 of this chapter, may do the following:

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(1) Take over the responsibilities and obligations associated with the project commonly referred to as the "buddy system project" as described in section 4(1)(A) of this chapter, which may include the following relating to the buddy system project:

(A) Conducting conferences on advances in technology and their application to the educational field.

(B) Upon ~~the joint~~ authorization by ~~the state superintendent~~ and the governor, establishing, operating, or managing education technology programs that:

(i) encourage the productive use of technology for instructing students in kindergarten through grade 12;

(ii) place technology directly with teachers and students, whether in school or otherwise to advance the education and skills and enhance the attitude of Indiana students who are in kindergarten through grade 12; or

(iii) accomplish both of the objectives described in items (i) and (ii).

(2) Administer all funds received by the corporation from whatever source to further the corporation's purposes, consistent with section 4(12) and 4(13) of this chapter.

SECTION 18. IC 20-20-25-3, AS ADDED BY P.L.1-2005, SECTION 4, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 3. (a) The committee consists of fifteen (15) members.

(b) The governor shall:

(1) appoint the members; ~~upon the recommendation of the state superintendent~~; and

(2) designate a member to serve as chair.

(c) The chair shall call the meetings of the committee. The members serve two (2) year terms.

SECTION 19. IC 20-24-3-12, AS ADDED BY P.L.1-2005, SECTION 8, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 12. (a) This section applies if the sponsor rejects a proposal.

(b) The organizer may appeal the decision of the sponsor to the charter school review panel established by subsection (c).

(c) The charter school review panel is established. The members of the panel are as follows:

(1) ~~The governor or~~ The governor's designee.

(2) The state superintendent, who shall chair the panel.

(3) A member of the state board appointed by the state superintendent.

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(4) A person with financial management experience appointed by the governor.

(5) A community leader with knowledge of charter school issues appointed jointly by the governor. ~~and the state superintendent.~~

A member shall serve a two (2) year term and may be reappointed to the panel upon expiration of the member's term.

(d) All decisions of the panel shall be determined by a majority vote of the panel's members.

(e) Upon the request of an organizer, the panel shall meet to consider the organizer's proposal and the sponsor's reasons for rejecting the proposal. The panel must allow the organizer and sponsor to participate in the meeting.

(f) After the panel meets under subsection (e), the panel shall make one (1) of the following findings and issue the finding to the organizer and the sponsor:

(1) A finding that supports the sponsor's rejection of the proposal.

(2) A finding that:

(A) recommends that the organizer amend the proposal; and

(B) specifies the changes to be made in the proposal if the organizer elects to amend the proposal.

(3) A finding that approves the proposal.

The panel shall issue the finding not later than forty-five (45) days after the panel receives the request for review.

(g) If the panel makes a finding described in subsection (f)(1), the finding is final.

(h) If the panel makes a finding described in subsection (f)(2), the organizer may amend the proposal according to the panel's recommendations and resubmit the proposal directly to the panel.

(i) If the panel makes a finding described in subsection (f)(3), the proposal is considered conditionally approved. The approval shall be considered final upon delivery to the panel of written notice from the organizer and an eligible sponsor that the sponsor has agreed to serve as a sponsor for the proposal approved by the panel.

(j) Proposals approved under this section shall not be counted under any numerical limits placed upon a sponsor or set of sponsors.

SECTION 20. IC 20-32-6-3, AS ADDED BY P.L.1-2005, SECTION 16, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 3. The committee has fifteen (15) members appointed as follows:

(1) The governor ~~and state superintendent~~ shall appoint seven (7) lay members.

(2) The speaker of the house of representatives shall appoint four

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(4) members, selected as follows:

(A) Two (2) members of the house of representatives from different political parties.

(B) Two (2) persons who:

(i) are not members of the general assembly; and

(ii) have an interest in education.

(3) The president pro tempore of the senate shall appoint four (4) members, selected as follows:

(A) Two (2) members of the senate from different political parties.

(B) Two (2) persons who:

(i) are not members of the general assembly; and

(ii) have an interest in education.

SECTION 21. IC 20-35-2-1, AS AMENDED BY P.L.234-2007, SECTION 121, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 1. (a) There is established under the state board a division of special education. The division shall exercise all the power and duties set out in this chapter, IC 20-35-3 through IC 20-35-6, and IC 20-35-8.

(b) The governor shall appoint ~~upon the recommendation of the state superintendent~~, a director of special education who serves at the pleasure of the governor. The amount of compensation of the director shall be determined by the budget agency with the approval of the governor. The director has the following duties:

(1) To do the following:

(A) Have general supervision of all programs, classes, and schools for children with disabilities, including those conducted by public schools, the Indiana School for the Blind and Visually Impaired, the Indiana School for the Deaf, the department of correction, the state department of health, the division of disability and rehabilitative services, and the division of mental health and addiction.

(B) Coordinate the work of schools described in clause (A).

For programs for preschool children with disabilities as required under IC 20-35-4-9, have general supervision over programs, classes, and schools, including those conducted by the schools or other state or local service providers as contracted for under IC 20-35-4-9. However, general supervision does not include the determination of admission standards for the state departments, boards, or agencies authorized to provide programs or classes under this chapter.

(2) To adopt, with the approval of the state board, rules governing

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the curriculum and instruction, including licensing of personnel in the field of education, as provided by law.

(3) To inspect and rate all schools, programs, or classes for children with disabilities to maintain proper standards of personnel, equipment, and supplies.

(4) With the consent of the state superintendent and the budget agency, to appoint and determine salaries for any assistants and other personnel needed to enable the director to accomplish the duties of the director's office.

(5) To adopt, with the approval of the state board, the following:

(A) Rules governing the identification and evaluation of children with disabilities and their placement under an individualized education program in a special education program.

(B) Rules protecting the rights of a child with a disability and the parents of the child with a disability in the identification, evaluation, and placement process.

(6) To make recommendations to the state board concerning standards and case load ranges for related services to assist each teacher in meeting the individual needs of each child according to that child's individualized education program. The recommendations may include the following:

(A) The number of teacher aides recommended for each exceptionality included within the class size ranges.

(B) The role of the teacher aide.

(C) Minimum training recommendations for teacher aides and recommended procedures for the supervision of teacher aides.

(7) To cooperate with the interagency coordinating council established by IC 12-12.7-2-7 to ensure that the preschool special education programs required by IC 20-35-4-9 are consistent with the early intervention services program described in IC 12-12.7-2.

(c) The director or the state board may exercise authority over career and technical education programs for children with disabilities through a letter of agreement with the department of workforce development.

SECTION 22. IC 3-8-1-10.5 IS REPEALED [EFFECTIVE JULY 1, 2008].

SECTION 23. [EFFECTIVE JULY 1, 2008] (a) As used in this SECTION, "incumbent superintendent" refers to the individual elected to the office at the November 2, 2004, general election.

(b) As used in this SECTION, "office" refers to the office of the state superintendent of public instruction.

(c) The following apply to the incumbent superintendent:

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1 (1) Notwithstanding IC 20-19-1-1, as amended by this act, the
 2 incumbent superintendent is entitled to serve in the office
 3 through January 11, 2009, unless the office becomes vacant as
 4 provided by law.

5 (2) The salary of the incumbent superintendent is seventy-nine
 6 thousand four hundred dollars (\$79,400) per year.

7 (3) Notwithstanding the amendments to IC 4-2-6-8 made by
 8 this act, the incumbent superintendent shall file a written
 9 financial disclosure statement as provided in IC 4-2-6 before
 10 its amendment by this act. IC 4-2-6 applies to the incumbent
 11 superintendent to the extent the statute applied to the office
 12 before its amendment by this act.

13 (4) Notwithstanding IC 4-3-6-2, as amended by this act, the
 14 term "agency" does not include the incumbent
 15 superintendent.

16 (5) Notwithstanding IC 5-14-3-3.5, as amended by this act:

17 (A) the term "state agency" does not include the
 18 incumbent superintendent; and

19 (B) the incumbent superintendent may use the computer
 20 gateway administered by the office of technology
 21 established by IC 4-13.1-2-1, subject to the requirements of
 22 IC 5-14-3-3.5, as amended by this act.

23 (d) If the incumbent superintendent vacates the office, the
 24 governor shall appoint an individual to be state superintendent of
 25 public instruction as provided in IC 20-19-1-1, as amended by this
 26 act.

27 (e) This SECTION expires July 1, 2009.

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